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CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK 1/2/2024 10:03 am

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

UNITED STATES OF AMERICA

v.

LIDIA DELCARMEN-RODRIGUEZ,

Defendant.

Case No. 19-CR-00431 (JFB)

Long Island Federal
Courthouse
100 Federal Plaza
Central Islip, NY 11722

November 27, 2023

TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE JOSEPH F. BIANCO
VISITING UNITED STATES CIRCUIT JUDGE

APPEARANCES:

For the Government:

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JUSTINA L. GERACI, ESQ.
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For the Defendant:

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1 (Proceedings commenced at 11:20 a.m.)

2 THE CLERK: Calling Case 19-CR-431, USA versus Lidia
3 DelCarmen-Rodriguez.

4 Counsel, please state your appearance for the
5 record.

6 MR. SCOTTI: Good morning, Your Honor. Paul Scotti,
7 Megan Farrell and Justina Geraci for the United States.

8 THE COURT: Good morning to all of you.

9 MR. TAYLOR: Good morning, Your Honor. Zachary
10 Taylor, here on behalf of Lidia DelCarmen-Rodriguez. I'm also
11 joined at counsel table by our mitigation specialist, Jill
12 Steinberg.

13 THE COURT: Good morning to both of you.

14 And as noted, Ms. DelCarmen-Rodriguez is present at
15 counsel table with the assistance of the Spanish interpreter
16 who is on staff here. I would just ask that the interpreter
17 identify herself for the record.

18 MS. GRAY: Good morning, Your Honor. Maya Gray,
19 Spanish Interpreter.

20 THE COURT: Good morning, Ms. Gray.

21 We're here for sentencing. Are both sides ready to
22 proceed?

23 MR. SCOTTI: Yes, Your Honor.

24 Before we go any further, I just did want to bring
25 to the Court's attention that we do have some family members

1 of the victim who are here in attendance today. We have the
2 victim's uncle, his mother, Jessica Diaz, his grandmother,
3 Patricia Diaz, as well as his two brothers.

4 And I do believe that both the victim's mother and
5 grandmother do wish to address the Court during today's
6 proceedings, so I just wanted to bring that to the Court's
7 attention.

8 THE COURT: Thank you for bringing that to my
9 attention.

10 And good morning to all of you as well.

11 So is the defense ready to proceed with sentencing
12 as well?

13 MR. TAYLOR: Yes, Your Honor.

14 THE COURT: I just want to review what documentation
15 I have in connection with the sentencing. I want to make sure
16 that I have all the documents that you have submitted and that
17 obviously you have all the documents that are before the
18 Court.

19 I have the pre-sentence report. I have the
20 Probation Department's recommendation of 22 years
21 imprisonment.

22 I have the Probation Department's addendum
23 addressing objections from defense counsel to some information
24 in the pre-sentence report. I have the Government's September
25 7th letter, which seeks a sentence of 25 years. I just want

1 to note, just so the record is clear, there appear to be some
2 typos within the letter that said 35.

3 The Government is seeking 25, correct?

4 MR. SCOTTI: Yes, Your Honor. That was a typo.

5 THE COURT: All right. And defense counsel has
6 submitted a September 16th sentencing submission with various
7 exhibits, including a letter from Ms. DelCarmen-Rodriguez, and
8 the mitigation report, and other documents as well. I also
9 received a November 20th supplemental submission from the
10 defense responding to the Government's submission.

11 Is there anything else I should have in connection
12 with the sentencing from the Government?

13 MR. SCOTTI: Nothing from the Government, Your
14 Honor.

15 THE COURT: Anything else from the defense?

16 MR. TAYLOR: No, Your Honor.

17 THE COURT: And, Mr. Taylor, have you and your
18 client received the pre-sentence report, the recommendation,
19 and the addendum?

20 MR. TAYLOR: Yes, Your Honor.

21 THE COURT: You've had sufficient time to review it
22 with her?

23 MR. TAYLOR: Yes, Your Honor.

24 THE COURT: Let me just confirm that with Ms.
25 DelCarmen-Rodriguez.

1 Ms. DelCarmen-Rodriguez, have you received and had
2 sufficient time to review and discuss with your attorney the
3 pre-sentence investigation report, the recommendations, and
4 the addendum?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. So there's one objection
7 that was noted that I just want to address, and then I'll see
8 if there are any other objections.

9 I don't think, although the addendum did incorporate
10 some information requested by defense counsel in the
11 sentencing submission on page 7, Mr. Taylor requests that
12 paragraphs 53 through 62 be modified to reflect the various
13 medical issues that Ms. DelCarmen-Rodriguez has. There is
14 reference to some of those things in the pre-sentence report,
15 but I think he wanted it to be more fulsome.

16 Is that accurate?

17 MR. TAYLOR: Yes, that's accurate, Your Honor.

18 Probation has addressed these issues in the
19 addendum, but we would prefer for it to be in the PSR itself.
20 Because my understanding is when Ms. DelCarmen-Rodriguez
21 arrives at her facility, the PSR is like the bible as it, you
22 know, comes to her.

23 THE COURT: So you're satisfied --

24 MR. TAYLOR: -- and I want it to be clear --

25 THE COURT: Yeah.

1 MR. TAYLOR: -- what those positions are.

2 THE COURT: You're satisfied that the addendum's --

3 MR. TAYLOR: So my preference, Your Honor, would be
4 to --

5 THE COURT: I was going to incorporate what you
6 wrote in your letter, and just tell them to amend the pre-
7 sentence report to contain the information on page 7 of your
8 letter --

9 MR. TAYLOR: That's fantastic, Your Honor. Thank
10 you.

11 THE COURT: -- and to prepare a revised report that
12 will travel with her.

13 MR. TAYLOR: Perfect. Thank you, Your Honor.

14 THE COURT: The Government have any objection to
15 that?

16 MR. SCOTTI: No Objection, Your Honor.

17 THE COURT: All right. So having resolved that
18 issue, Mr. Taylor, does your client have any objections to the
19 pre-sentence report?

20 MR. TAYLOR: No, Your Honor.

21 THE COURT: Does the Government have any objections
22 to the pre-sentence report?

23 MR. SCOTTI: No, Your Honor.

24 THE COURT: I adopt the information contained in the
25 pre-sentence report as factual findings by the Court pursuant

1 to *United States vs. Booker*. The sentencing guidelines are
2 advisory. They're only one factor the Court is to consider
3 among all of the statutory factors. The advisory guideline
4 range in the pre-sentence report is calculated to be a level
5 40, criminalistic category one, with an advisory range of 292
6 to 365 months.

7 Do both sides agree that that's the proper
8 calculation of the advisory range.

9 MR. SCOTTI: Yes, Your Honor.

10 MR. TAYLOR: Yes, Your Honor.

11 THE COURT: I agree as well. Just again, so the
12 record is clear, the base offense level for murder is 43.
13 Because Ms. DelCarmen-Rodriguez pled guilty in a timely
14 fashion, she's entitled to a three level reduction for
15 acceptance of responsibility, which reduces it to a level 40.
16 She has no criminal history. She's a criminalistic history
17 category one, which results in the 292 to 365 month range.

18 I should also note for the record, and I think the
19 parties will confirm that they agree, although at the time the
20 report was prepared the Probation Department said that the
21 924(j) charge carried a mandatory minimum of 10 years, that
22 pursuant to the Supreme Court decision that there is no
23 mandatory minimum.

24 Correct?

25 MR. SCOTTI: Yes, Your Honor.

1 THE COURT: Correct?

2 MR. TAYLOR: Yes, Your Honor.

3 THE COURT: So there's no mandatory minimum that
4 applies to this case.

5 So, as I said, the guideline range is advisory.
6 It's just one factor the Court is to consider among all the
7 statutory factors that I'm now prepared to hear from both
8 sides.

9 But before I do that, I want to hear from the
10 victim's family first.

11 And the Government indicated that the victim's
12 mother, Ms. Diaz, would like to speak. And the grandmother.
13 The mother would like to go first?

14 MR. SCOTTI: Yes, Your Honor.

15 THE COURT: Good morning.

16 MS. MOLINA: Good morning.

17 THE COURT: Just please state your name for the
18 record.

19 MS. MOLINA: My name is Jessica Molina, the mother
20 of Jasson Xavier Medrano.

21 THE COURT: Okay. Good morning. Take your time.
22 We're in no rush.

23 MS. MOLINA: Good morning. Every day I see his
24 photo and I see his beautiful smile and suddenly I feel an
25 immense pain, a pain which doesn't finish, knowing that he is

1 not with me, with his siblings, with his family. Every day is
2 difficult. And even more when Christmas comes and it's so
3 difficult, it's a pain that we will never be able to overcome.

4 The whole family has suffered a whole lot. My
5 children and I have suffered a lot due to the loss of Jasson.
6 Since that day, our life has changed. And we know how hard it
7 is to be anxious, depressed, because the loss of Jasson has
8 been devastating, in fact, and this will be for the rest of
9 our lives.

10 Only because of people like that criminal with a
11 perverse mind and with bad intentions. She knew everything
12 that was going to happen and she did nothing to stop it.

13 Because of all you did, you do not deserve the privilege
14 of the most beautiful thing, to live with freedom, because
15 you're an evil woman without feelings. You're a danger to
16 society.

17 Justice for Jasson. Thank you, Your Honor. And I
18 thank the attorneys who have worked so hard to make sure that
19 justice is served.

20 THE COURT: Well, thank you for your words today.

21 And I know I said to you, said some of things I'm
22 about to say to you at Mr. Sorto Portillo's sentencing, but I
23 want to emphasize them.

24 And I know how difficult it is to come back again
25 and to be here, and it takes a lot of courage to do what

1 you're doing today.

2 I want to express my deepest condolences to you, to
3 your whole family, for the loss that you have suffered.

4 And I was actually thinking, as I was preparing for
5 the sentencing last week, how especially difficult, you made
6 reference to how especially difficult the holidays are, but I
7 want to assure you, and I think it's very important that
8 you're here, that I hear your words again, that Ms. DelCarmen-
9 Rodriguez hears your words, and that the public hears your
10 words. It's very, very important.

11 And I want to assure you that the sentence that I am
12 imposing today reflects the loss of life, the loss of your
13 son's life. It will reflect the harm, not only to him, but to
14 your whole family, because I know that you will live with this
15 forever. Your family's life will never be the same and that
16 that emotional and psychological devastation will always be
17 there.

18 So I just want to assure you that I understand that,
19 and that I'm doing the best that I can to make sure that this
20 sentence is a just one that reflects those things.

21 The law requires me to consider other factors, not
22 just those factors, but other factors as well.

23 But you can be fully confident that I fully
24 appreciate the loss that you have suffered. And thank you
25 again for being here.

1 MS. MOLINA: Thank you, Your Honor. Justice for
2 Jasson.

3 THE COURT: Good morning. Please state your name
4 for the record.

5 MS. DIAZ: Good morning, Members of the Jury.

6 THE COURT: If you could just -- if you could just
7 state your name for the record.

8 MS. DIAZ: My name is Patricia. I am the
9 grandmother of my child that I don't have with me anymore. I
10 loved him very much and he did too. The family was very proud
11 of him because he was a hard-working child, and he studied
12 hard, and he was at the best time of his life, and he didn't
13 see evil towards anyone.

14 When this happened, I thought I had the courage and
15 I would ask myself who was the person that caused so much harm
16 to the family? And I asked god for justice, justice in heaven
17 and here on earth.

18 And when I realized that this person had been
19 arrested, I gave thanks to god, and I looked to heaven and I
20 sighed.

21 How could this woman do so much harm to my grandson?

22 She is also guilty knowing she did nothing to
23 prevent it. She's a liar and hypocrite pretending to be a
24 friend of my grandson. She caused harm to my family, to my
25 son, siblings, to the aunts and uncles. Not only did she do

1 harm to my grandson, to the entire family.

2 How could she -- her heart be so cruel and so evil?

3 Nobody has the right to take away another person's
4 life. This woman deserves the full impact of the law. I beg
5 you, Your Honor, the full impact of the law. I'm asking for
6 the maximum punishment for this woman. She's a danger to
7 young people. She could do it again, commit the same crime
8 again. Persons like her do not deserve to outside.

9 My grandson did not deserve to die like this. He
10 was a good child, popular, he trusted everybody. He had no
11 evil towards anyone. My grandson -- my son lit up.
12 Everywhere that he was he would light things up. And you the
13 murderer, you (indiscernible). But you deserve, because
14 you're so evil, (indiscernible) and let you have no peace for
15 the rest of your life.

16 THE COURT: Well, let me just, again, also extend my
17 condolences to you as well. I hear the anguish in your voice.
18 I can see it in your face. And in your daughter's as well.

19 Again, I assure that this sentence will reflect the
20 loss that you have suffered and continue to live with going
21 forward.

22 One of the requirements the Court is to consider is
23 what a just sentence should be and I certainly have that in my
24 mind as I impose sentence today.

25 Thank you, again, to both of you.

1 MR. SCOTTI: Your Honor, I'm sorry to interrupt the
2 Court. We've been advised that the uncle, Jorge Alexander,
3 also would like to address the Court if that's permissible.

4 THE COURT: Yes.

5 MR. SCOTTI: Thank you.

6 THE COURT: Does he need the interpreter?

7 MR. SCOTTI: Yes, Your Honor.

8 THE COURT: Mr. Alexander, you can come forward.
9 Can you please state your name for the record.

10 MR. ALEXANDER-MOLINA: Good morning. I'm Jorge
11 Alexander-Molina. I'm Jasson's uncle.

12 First of all, I would like to address once again the
13 perpetrator. I want to remind her her name is Jasson Xavier
14 Medrano, remember all your life about him. He will be present
15 to you forever.

16 He wasn't guilty of everything that happened to him.
17 He was a saint.

18 I hope you have a long life, very long life, but
19 very unhappy, because of all the things you did. Because your
20 hands are covered with blood. Even though another person did
21 it, you have your hands covered with blood.

22 I hope you remember his name, Jasson Xavier Medrano.
23 That's his name. He had his own light. You have no light
24 ever. You will have an unhappy life and it's scarred by what
25 you have done. It has been the most horrible thing. As I

1 tell you, maybe you were not the person who committed the act,
2 but you have your hands covered with blood as the other
3 person.

4 His name is Jasson Xavier Medrano. Never forget it.
5 Never until the day you die.

6 Thank you, Your Honor. And I hope the full impact
7 of the law.

8 THE COURT: Thank you, Mr. Alexander-Molina. And,
9 again, I extend my deepest sympathy and condolences to you as
10 well.

11 I'll now hear from the Government.

12 MR. SCOTTI: Thank you, Your Honor.

13 It's very hard to follow what the Court just heard,
14 when you hear from the family members, the mother,
15 grandmother, the uncle, who are forced now to live the rest of
16 their life suffering because their loved one, their child,
17 this 15-year-old boy, who had his whole life ahead of him, and
18 who they had all of these hopes for, all of these wonderful
19 experiences with, the joys and the pains of raising a child
20 that these family members got to experience, and just when he
21 was at the point of his life where he started to experience
22 more and do more and become a young man, his life was taken
23 from him. And it was taken from him, and he was taken from
24 his family for nothing, for no reason.

25 And first and foremost, the sentence has to address

1 the devastation that this family feels by the actions of this
2 defendant. And the sentence also has to address that it was
3 done in furtherance of this insidious, depraved, and evil
4 nature and mission of the MS-13 gang. And this is the kind of
5 murder that really does demonstrate just how evil the gang is.

6 Jasson Medrano, he didn't hurt anybody that resulted
7 in what happened to him that night. He wasn't in a gang. All
8 he did was try to act tough in front of a girl that he liked,
9 and it was just the wrong girl.

10 It was the defendant, someone who was fully involved
11 in the MS-13, someone who knew the rules of the gang, the
12 culture of the gang, and she used some information that she
13 got in order to elevate her own status in the gang and told
14 her gang member friends information that directly resulted in
15 the victim's death.

16 And it's because of her commitment to what the MS-13
17 gang was about, a gang that she knew very well from her
18 upbringing in El Salvador and all of the violence that she was
19 exposed to. And she knew the gang perpetrated down there.
20 And then she came to this country. And rather than accept the
21 support and the love of the family she had, she sought
22 friendships and associations with these violent criminals.

23 And it's because of her decisions, her choices, that
24 Jasson is not here today. It's because of her choices that
25 the defendants -- rather the victim's family is forced to

1 suffer.

2 And one of the 3553(a) factors the Court has to
3 consider is a just punishment obviously.

4 And the defendant has requested a ten-year sentence
5 for this horrific crime.

6 Your Honor, a ten-year sentence obviously would be
7 an injustice. It would be an injustice to the victim. It
8 would be an injustice to the family.

9 This defendant deserves not a day less than 25 years
10 that are recommended by the Government. That's an appropriate
11 sentence when considering all the 3553(a) factors, including,
12 and the *Miller* factors, Your Honor, and when considering the
13 other mitigating factors that have been set forth in great
14 detail, both during the transfer proceedings and in the
15 submissions to the Court in advance of sentencing.

16 But the Government would largely rely on its summary
17 and analysis of those factors as set forth in our sentencing
18 letter. There are just a few things I want to address more
19 specifically and beginning with the crime itself. And this
20 was extremely serious. And I did mention before it's even
21 more serious because it was committed in furtherance of the
22 MS-13.

23 But with respect specifically to this defendant, her
24 vital role in not just the murder of the victim, but even
25 before that in identifying another potential rival for her MS-

1 13 associates who was identified in the -- in the information
2 as John Doe No. 1.

3 So the defendant, over a course of months, in the
4 summer of 2019, was actively assisting her MS-13 associates
5 with trying to identify and locate people that they could
6 kill. And there was no due diligence done. It really didn't
7 matter whether or not the person was in a gang. It was just
8 whether they had enough information that they could use that
9 as justification. Because the only reason that the defendant
10 and her associates wanted to kill was because that's what you
11 do when you're in the MS-13.

12 And she, of her own choosing, of her own volition,
13 brought these two individuals to the gang members knowing full
14 well what that meant, that it meant that they would be hunted
15 and they would be killed.

16 John Doe 1 was lucky enough to avoid that fate, but
17 Jasson was not.

18 There was nothing impulsive or impetuous about what
19 she did, and that's obviously one of the considerations that
20 the Court has to -- has to analyze with respect to the *Miller*
21 factors. That doesn't apply here. This was a cold-blooded
22 and premeditated murder.

23 Additionally, Your Honor, this was even more
24 dangerous because the defendant put the lives of other
25 innocent individuals in danger on that same night. The victim

1 wasn't alone. There were other people who were with him,
2 other people who came into the woods when the defendant called
3 them into the woods, who easily could have been injured or
4 killed. And the fact that the defendant continued to go
5 through with this plan when there were others, people, even a
6 person who she had known from the neighborhood who was
7 present, that shows a complete disregard for human life.
8 Which, again, goes to the seriousness of the offense. It also
9 goes to the nature and characteristics of the defendant.

10 Furthermore, with respect to the characteristics of
11 this defendant, there was no remorse after taking part in such
12 a horrific event. And after understanding that this person
13 who she knew, who she had been friendly with, and that
14 friendship is what she used to lure him, was now dead, the
15 defendant didn't distance herself from her co-conspirators.
16 She destroyed evidence. She lied to law enforcement. She
17 continued to associate with them until the shooter was
18 arrested.

19 And even in Dr. Goldsmith's interviews, who was the
20 expert who interviewed the defendant several times in support
21 of her opposition to the transfer motion, those -- that report
22 was very thorough. And there were two, I believe two, lengthy
23 interviews he had with her.

24 And while the defendant -- and it's understandable
25 from a legal standpoint why the defendant might not want to go

1 into detail about what happened, what she did, there was also
2 no expression at all of remorse or regret or empathy or
3 sympathy for the victim or his family. And this is in the
4 years following the incident.

5 And so it's very -- I think it's very significant
6 that after periods of reflection -- and the Government does
7 understand that the defendant had diagnosable issues, post-
8 traumatic stress due to very tragic circumstances in her
9 upbringing, which I'll address a little later on -- but still,
10 Your Honor, it's that connection to the humanity of it, to the
11 loss of life, that was missing and really has not been
12 demonstrated to this point.

13 There is some reference in the letter she submitted
14 to Court in support of her sentencing submission that did
15 address the pain of the family and the sorrow that she felt,
16 but it was a very limited expression of remorse given the
17 significance of the loss of life and the destruction that was
18 done that night.

19 And, again, with respect to the mitigating factors
20 here, there is much that is before the Court, both from Dr.
21 Goldsmith's report, Dr. Goldsmith's testimony at the transfer
22 hearing, there's also the report that was submitted in support
23 of the sentencing from mitigation expert, Jill Steinberg, a
24 lengthy report there.

25 And the Government does not deny the significance of

1 many of these mitigating factors, particularly the abuse, the
2 trauma, that the defendant asserts she was the victim of
3 growing up in El Salvador.

4 There was the additional incident that was first
5 reported to Ms. Steinberg about a rape that happened while she
6 was in high school.

7 Now, while obviously those are not -- that recent
8 allegation hasn't been corroborated, although I believe the
9 victim's mother did indicate that there was outcry to her, for
10 some reason that did not come out during the transfer hearing,
11 didn't come out through Dr. Goldsmith, didn't come out through
12 the interviews with the mother, but the Government's not in a
13 position to dispute that and we're not going to.

14 I think it's clear to everyone who's been in this
15 case for many years that the defendant's story is a tragic
16 one, but neither her particular circumstances, nor the
17 difficult upbringing, and the unrest in all of the tragic
18 circumstances that are going on in El Salvador, and were going
19 on when she was there, can explain away her conduct.

20 The defendant made choices here. They were choices
21 she didn't have to make. And they were choices that resulted
22 in horrific consequences.

23 And so, while the mitigating factors are something
24 that this court certainly will consider, it is also -- it is
25 also -- has to be balanced against all of those things, the

1 offense conduct and her actions before and after, and even in
2 the years after.

3 And the Government has considered those things.
4 Which is why our recommendation is 25 years and is not much
5 longer, which would have been warranted without those specific
6 mitigating factors.

7 And there's also something else, Your Honor, that
8 the Government finds to be troubling. And that is the part of
9 Ms. Steinberg's report where the defendant seems to try to
10 explain what happened with the -- with her telling the gang
11 about John Doe 1 and the victim and then the circumstances
12 surrounding the night of the murder.

13 As this court is well aware, very significant
14 consideration of a sentence for someone this age, or who was
15 at the age she was when she committed the crime, is
16 rehabilitation, future dangerousness, and a full acceptance of
17 responsibility is an extremely significant thing.

18 And acceptance, without minimizing one's role, shows
19 that someone appreciates what they've done, they understand
20 the harm they've committed, and that makes them less likely to
21 want to engage in that again or commit that kind of harm
22 again.

23 And, in Ms. Steinberg's report, the defendant
24 minimizes her role and her conduct, and not -- doesn't just
25 minimize them, but it's done in extremely irrational and

1 unbelievable ways that are completely inconsistent with
2 evidence, including, and really exclusively, evidence that
3 came directly from the defendant and out of her mouth about
4 how these conspiracies to murder, the origins of these
5 conspiracies to murder, happened, and how the murders that
6 night took place. The defendant fully allocuted to that.

7 There were other -- there was other evidence of -- from
8 the defendant.

9 And, in Ms. Steinberg's report, according to the
10 defendant, these -- the plan to murder the victim and John Doe
11 1 was when she let it slip that they were rivals and that she
12 had no idea what she was doing or what that would lead to.

13 That's completely false. It's an absurd premise.
14 And it's also inconsistent with the timeline of this case,
15 which we know from the defendant herself that John Doe 1 was
16 the originally target. When they couldn't kill him, then it
17 pivoted to the victim when the defendant identified the
18 victim.

19 But it's also completely inconsistent with the fact
20 that the defendant did these things because she was a member
21 of the MS-13, and that's why she reported these things to the
22 people that she was friends with and she was associating with.

23 The defendant told this court that when she pled
24 guilty, she did it, that she lured out the victims to be
25 killed.

1 Also, additionally, when she was discussing the
2 murder itself, that the murder happened six or seven days
3 after an attempted suicide, the defendant attempted suicide,
4 that she had believed in her mind that possibly she could lure
5 the victim out to be killed only to take the bullets herself,
6 almost luring him out to be killed only to save him so she
7 could herself die. And, again, Your Honor, that's also
8 completely irrational and really an absurd minimization of
9 what happened.

10 In fact, what we know from the defendant is that she
11 thought the victims were going to be killed with baseball
12 bats, that guns weren't even going to be involved. She also
13 tried to lure out John Doe No. 1 that night. So the level of
14 minimization is greatly concerning. It shows a lack of
15 acceptance and responsibility and it further warrants a severe
16 sentence.

17 Finally, Your Honor, I touched on a few of the
18 *Miller* factors, but overall the *Miller* factors here don't
19 support a significant reduction based on her age.

20 As I said, this crime was premeditated and planned
21 over weeks. It was not an isolated, solitary incident. And
22 her significant involvement in the planning and execution of
23 the murder, and the conspiracies, all would undermine any
24 mitigating value from an analysis of the *Miller* factors here.

25 So for the reasons that the Government has stated,

1 as well as the other reasons set forth in 3553(a), and the
2 case in *Miller*, the Government is recommending a sentence of
3 25 years. Thank you, Your Honor.

4 THE COURT: Thank you, Mr. Scotti.

5 I'll now hear from the defense, Mr. Taylor.

6 MR. TAYLOR: Thank you, Your Honor.

7 This is a very difficult case. A child was
8 murdered. And the agony that her family is going through is
9 palpable.

10 Lidia was herself a child when the murder occurred.
11 She was 16 years old, about ten days shy of her 17th birthday,
12 when Jasson Medrano-Molina was murdered.

13 As you know, Your Honor, the guidelines in this case
14 are 292 to 365 months.

15 Probation has recommended below guidelines sentence,
16 of 22 years, in light of the substantial mitigation that has
17 been presented in this case. And the Government is seeking a
18 guideline sentence of 25 years, 300 months, so it's at the
19 relatively low end of the guidelines range.

20 Your Honor, this is a difficult case because this is
21 not a median offense that would warrant a guidelines sentence.

22 On the other side of the ledger from the family's
23 agony is what Lidia has gone through.

24 THE INTERPRETER: Sorry. Could you repeat that,
25 please.

1 MR. TAYLOR: On the other side of the ledger from
2 the agony that the family has experienced is what Lidia has
3 gone through.

4 Your Honor sentenced Mr. Sorto Portillo to 30 years.

5 A lower sentence for Ms. DelCarmen-Rodriguez would
6 be warranted in the absence of any mitigation for the simple
7 reason that she was not the shooter. One could only
8 hypothesize about whether she could commit that act herself,
9 which is not to minimize her role in the offense.

10 She has taken, she has accepted full responsibility,
11 she waived indictment, and she stood in this courtroom and she
12 stated that she committed a crime, but her role was different
13 from Mr. Sorto Portillo's.

14 Now, the Government in their sentencing submission
15 in connection with Mr. Sorto Portillo, that's docket number
16 19-CR-423, ECF No. 79, on page 4, the Government says of Mr.
17 Porto Sortillo, quote, "the defendant recruited DelCarmen-
18 Rodriguez and Co-Conspirator No. 1 to participate in this
19 conspiracy, and then with their assistance ambushed Medrano-
20 Molina and two other young men." end quote.

21 There, the Government makes clear that Mr. Sorto
22 Portillo who has already been sentenced was the prime mover in
23 this terrible, terrible crime.

24 So for that reason, just the difference in the role,
25 Ms. DelCarmen-Rodriguez should get a sentence at the bottom of

1 the guidelines without any consideration of mitigation. But
2 then there is that other side of the ledger.

3 Your Honor, I'm going to go through a few of the
4 issues that we've raised in our sentencing submissions. I'm
5 going to address the *Miller* case briefly. And I'm going to
6 then talk about why the sentence that we have requested the
7 Court impose, ten years, is appropriate in this case.

8 The mitigation in this case is extraordinary. I'm
9 going to start with one piece of information that's closest to
10 the crime.

11 On August 1st, 2019, six days before Jasson Medrano-
12 Molina was murdered, Lidia attempted suicide. She ate a bunch
13 of pills. She cut herself. She was taken to Cohen's
14 Childrens Hospital in an ambulance and she was kept there
15 under observation for a few days. She survived that attempt
16 on her life. But what was -- what was it that drove her to
17 that?

18 It's difficult for me going back through Ms.
19 DelCarmen-Rodriguez's life story to bring this all up again in
20 front of her, because she's had to go through it numerous
21 times with different professionals, me, with Dr. Goldsmith,
22 Ms. Steinberg. It's very difficult for her, so I'm not going
23 to go through this in all the horrific detail that's set forth
24 in our sentencing submissions.

25 I'm just going to try to spend a moment for us to

1 imagine that it was like for a child between the age of 4 and
2 12 to experience what Lidia experienced day after day. She
3 was a defenseless child. She was raped over and over,
4 physically abused, treated like an unwanted member of the
5 household by her own family. She lived in rags. The money
6 that her mother sent to her from America was taken by her
7 father and his other family for their own use. They treated
8 her like an animal.

9 She has physical scars on her back from the
10 whippings that she received. And she has in side of her the
11 trauma indelible. It affects the neural pathways of the
12 developing brain to undergo that kind of trauma.

13 Now, the trauma did not end in El Salvador.

14 The Government said just now that they do not
15 dispute that Lidia was raped again in 2015. June 18, 2015, an
16 abandoned house in Central Islip, by seven men, some of whom
17 went to her school. She underwent that trauma as well.

18 Now, this is not an attempt, as the Government put
19 it, to, quote, "explain away her crime." Rather, as required
20 under Section 3553, the Court needs to consider both sides of
21 the ledger, both the offense and the history and character of
22 the defendant.

23 Now, the Government has focused rightly on the
24 choices that Ms. DelCarmen-Rodriguez made. Those choices were
25 conditioned by the complex PTSD that she suffers from.

1 And when she arrived in America at the age of 12 she
2 did not find herself in a situation where everything that
3 she'd experienced previously was in the past and now she could
4 start a new life. On the contrary, as the Government points
5 out in their sentencing memo for Jose Sorto Portillo at page
6 5, MS-13 was, quote, "terrorizing communities in Long Island."

7 And as the Government puts it, MS-13's pervasive
8 presence in those communities, quote, "make it impossible for
9 law-abiding citizens, especially those with teenage children,
10 to live a normal life."

11 That applies equally to Lidia. She came to this
12 country at the age of 12. As she noted to Dr. Goldsmith, when
13 she got to Long Island, she could tell from the way the boys
14 walked, certain boys walked, that they were gang members.
15 That was traumatizing for her.

16 The Government faults her for not staying clear of
17 those people. But it was not possible to stay clear. As the
18 Government puts it themselves, they make it impossible for
19 law-abiding citizens, especially those with teenage children,
20 to live a normal life. Lidia was no exception to that.

21 Now, in our mitigation report, we set forth the data
22 that shows that women who have been subjected, I'm sorry,
23 strike that, girls who have been subjected to sexual abuse and
24 rape are massively more likely to become affiliated with gangs
25 than women who have not. Two and a half times more likely for

1 a woman, for a girl, who's been subjected to sexual violence
2 become a member of a gang than a girl from the same community
3 who was not. That's data. And it's in our mitigation report.

4 Why do the girls then join the gang? People who
5 have studied this say that often they say it's because they
6 feel safe. And that's the case here.

7 Lidia was raped in June of 2018. Shortly thereafter
8 she met and started a relationship with Mr. Sorto Portillo.
9 Yes, she knew that he was a member of MS-13, and she felt
10 safer around him because she knew that then nobody would do to
11 her again what had happened to her on June 18th, 2018.

12 Now, the girls may say they feel safe, but they're
13 not really safe.

14 The Government wants to create an equivalence
15 between Mr. Sorto Portillo and the decisions he made and the
16 decisions that Lidia made, but they're not at all equivalent,
17 because we're kidding ourselves if we think that the girls in
18 that group have control over what's happening. They get used
19 by the boys. They get told what to do. And if they don't do
20 that, there are consequences.

21 When Lidia came to the U.S. and -- she found that
22 she was not in a safe environment that specifically applied to
23 young women. In September of 2016, two girls who were not
24 much older than Lidia were brutally murdered in Brentwood.
25 Lidia knew about that. Everybody knew about that. The

1 President of the United States came here, held a press
2 conference, and called Salvadorians animals. Everyone knew
3 what was going on in that community.

4 And that's when Lidia starts to cut herself and to
5 use cannabis. She's very young. The cannabis use, the
6 complex PTSD, those have a direct impact on her decision
7 making.

8 Now, the Government has focused, made a big deal
9 about, how, as they put it, there was nothing impulsive or
10 impetuous in Lidia's behavior. And the reason they do so is
11 because this touches on the factors set forth in *Alabama v.*
12 *Miller*.

13 Now, let's be clear, the tests in that case -- the
14 Government says it's a four-part test, I've seen it described
15 elsewhere as a five-part test -- does not apply in this case.
16 That's for cases for where a court has to decide whether a
17 juvenile offender should be sentenced to life without parole.
18 That's not on the table here.

19 The reason we brought up *Miller* in our sentencing
20 submissions is because the Supreme Court has said that
21 children are constitutionally different from adults when it
22 comes to sentencing because of their immaturity, because of
23 their lack of autonomy and other factors. And that's
24 completely applicable here.

25 Now, the Government has taken some of the language

1 concerning juvenile impulsiveness, impetuosity, from the
2 *Miller* case to argue that because Lidia's offense involved
3 premeditation. It was not impetuous and, therefore, not
4 characteristic of juvenile behavior. In essence, in the
5 Government's view, premeditation negates the diminished
6 culpability attendant to youth.

7 Your Honor, this is a rhetorical strategy. It is
8 not a fair assessment of the science behind the Supreme
9 Court's decision in *Miller* or the proceeding cases *Graham* and
10 *Roper*. They've held that children are constitutionally
11 different because they're not fully mature and they're,
12 therefore, not as responsible for their decision making.

13 Now, even when a juvenile defendant offender engages
14 in some form of premeditation, their decision-making process
15 is still affected by their inability to accurately assess
16 risks and consequences that were identified by the Court in
17 *Miller* as being the hallmarks of youth.

18 As the Supreme Court put it, children, quote, "lack
19 the ability to extricate themselves from horrific, crime-
20 producing settings," end quote. That's at 567 U.S. at 471.

21 Now, here, Lidia's chronological immaturity was
22 compounded by the history of trauma and complex PTSD that
23 we've been through.

24 The point that I'm trying to make here is that the
25 developmental deficits associated with Lidia's immaturity and

1 complex PTSD conditioned her decision making at every step
2 leading up to Mr. Medrano-Molina's murder. She lacked the
3 ability to extricate herself from the offense that she
4 committed.

5 Now, the Government is very upset by a sentence in
6 Ms. Steinberg's report stating that Lidia let slip that the
7 two targets, John Doe No. 1 and Jasson, were gang members.
8 Perhaps one could say blurted or, as in a lot of the
9 submissions including the Government's own sentencing
10 submission, informed.

11 Now, whatever word, verb, that you apply to this,
12 there's nothing at all inconsistent with what we have
13 described and the facts in this case. The Government has not
14 pointed out any fact that blurting out that these individuals
15 are gang members is inconsistent with.

16 Sure, one should understand, under those
17 circumstances, that informing a gang member that someone
18 belongs to a rival gang is going to result in terrible
19 consequences for that person, but this is the whole point of
20 *Miller*, is that juveniles are less able to sort through those
21 consequences. And once you get something like this started,
22 there's no turning back.

23 Now, look, Lidia did not turn back. We're not
24 denying responsibility. Lidia has accepted it from the
25 beginning. She waived indictment. She pleaded guilty. But

1 that doesn't change what happened.

2 Lidia could not find an off ramp. She tried to
3 commit suicide a week before the offense. That is so
4 illuminating about where her mental state was at the time that
5 she could not figure out how to get out of this mess. Her
6 fantasies, and that's what they were, she talked to Dr.
7 Goldsmith about some part of hoping that she got shot that
8 night. This is a fantasy. It's a teenage fantasy. It's the
9 fantasy of someone who is suffering from complex PTSD, and
10 it's not at all inconsistent with the facts.

11 As Lidia told the police, she knew that Mr. Sorto
12 Portillo carried a gun. And, again, we're kidding ourselves
13 if we think that MS-13 members don't regularly carry guns and
14 that someone who is closely associated with the gang is not
15 fully aware of that fact.

16 There's nothing at all inconsistent with the facts
17 of this case and, which we are in complete agreement, whatever
18 language we use, she informed the gang members. Then, as the
19 Government put it, Mr. Sorto Portillo recruited her and
20 another co-conspirator to participate in the conspiracy. Ms.
21 DelCarmen-Rodriguez assisted them materially all along the way
22 resulting in Mr. Medrano-Molina's death. We take full
23 responsibility for that.

24 I want to talk about a couple of other mitigating
25 factors that are important for the Court to understand.

1 Lidia went through very, very difficult conditions
2 of incarceration during the pandemic. She was still a child.
3 She was at the Essex Juvenile Facility. And the people who
4 work there seem very nice, but because of the disease that was
5 going around, she was locked down in her cell more than 23
6 hours a day. And, in part, this had to do with the fact that
7 there was a mix of boys and girls in the facility.

8 And the boys, being considered a more dangerous
9 group, were given more ability to go around in the facility,
10 which meant that the girls would always have to be separated
11 from them or kept confined to their cells.

12 And these girls, to have any kind of human contact,
13 would sing to one another underneath the doors of their cells,
14 popular songs, just so they could feel some kind of
15 connection.

16 When I first met Ms. DelCarmen-Rodriguez, it was
17 over Zoom. Even her lawyer could not get into the facility.
18 She had almost no human contact. For someone who's been
19 through the trauma that Ms. DelCarmen-Rodriguez has been
20 through, that was incredibly difficult.

21 Incredibly, in spite of all that, she completed her
22 high school degree under those circumstances working by
23 herself on a tablet. She got good grades. She dropped out
24 after freshman year. She completed high school while she was
25 in jail.

1 The other mitigating factor is that Ms. DelCarmen-
2 Rodriguez is going to be returned to El Salvador after she
3 completes her sentence. Again, it's almost unimaginable how
4 difficult that's going to be for her. This is a punishment
5 that is almost impossible to apprehend given what she
6 experienced in El Salvador. And she hasn't been there since
7 she was 12. And it makes me feel unbelievably terrible to
8 wonder what is going to happen to her when she does return.

9 Now, finally, I want to talk about how much Lidia
10 has changed.

11 I met her in 2020. I was her second attorney. And,
12 as I said, it was during the pandemic. And our first meeting
13 was over Zoom. It was difficult to communicate with Lidia.
14 Not just because of the technological challenges, but because
15 she barely spoke any English, and she was completely within
16 her shell. She did not want to speak to me.

17 It's difficult to express how much she has changed
18 since that time. Her English is basically flawless. She's
19 read a novel by Gabriel Garcia Marquez in English. Says she
20 prefers it to the Spanish version. This is a very intelligent
21 person. And she's also opened up.

22 Now, it's not at all surprising when she was
23 interacting with Dr. Goldsmith that there were things that she
24 didn't tell him. With all due respect to my predecessor as
25 counsel, Dr. Goldsmith is a fantastic psychiatrist, but the

1 difficulty is that he's a man. It was very hard for Lidia to
2 open up to him. I've watched this myself because I was
3 involved in some of these meetings. It was terrible.

4 And Ms. Steinberg was able to connect with Lidia.
5 And we can see the kind of person that she is. Not evil.
6 Someone whether is deeply traumatized, who is remorseful, who
7 wants to do good in the world. And so I've seen this
8 incredible change in Lidia. I've seen the incredible change
9 in Lidia.

10 Now, clearly Your Honor is going to give and has to
11 give Ms. DelCarmen-Rodriguez a very substantial sentence.

12 We believe that ten years is appropriate under the
13 circumstances, that it might be difficult for someone who only
14 knows about the crime to understand why such a sentence would
15 be appropriate. But here, given everything that Lidia has
16 been through, how this affected her decision making and made
17 those decisions less culpable, a ten-year sentence is
18 appropriate.

19 Thank you, Your Honor.

20 THE COURT: Thank you, Mr. Taylor.

21 Ms. DelCarmen-Rodriguez, you also have the right to
22 speak today at your sentencing. You can remain seated.
23 Obviously, I've received your letter, and I've read your
24 letter, but you can also speak today. You can remain seated
25 and say anything you wish to say before you're sentenced.

1 MR. TAYLOR: Your Honor, prior to the hearing, Lidia
2 told me that she did want to tell Jasson's family that she's
3 very sorry, but she also did not want to upset them by
4 addressing them directly, so she's not going to make any
5 statement today.

6 THE COURT: All right. I'm going to take a short
7 recess. I want to give -- we've been going for quite a while,
8 I just want to give the interpreter a break. We'll take a
9 ten-minute break and then I'll impose the sentence.

10 (Recess taken from 12:27 p.m. to 12:42 p.m.)

11 THE COURT: Okay. I've been advised, Mr. Scotti,
12 that you want to be heard on something.

13 MR. SCOTTI: Yes, Your Honor. I just wanted to
14 briefly address some of the --

15 THE COURT: Very briefly.

16 MR. SCOTTI: Very briefly, Your Honor.

17 And really it has to do with, first and foremost,
18 the role here, because Mr. Taylor did want to demonstrate a
19 significant difference in roles here between Sorto Portillo
20 and the defendant, and that's just not consistent with the
21 evidence.

22 The victim is dead today because of this defendant.
23 She is the one who reported what he told her to the defendant.
24 It was Sorto Portillo afterwards who arranged what would
25 happen with the defendant being an integral part of how the

1 victim would be killed. But, also, it was the fact that the
2 defendant not only lured out the victim, but it was also John
3 Doe No. 1, that was the first conspiracy, and that was another
4 person that the defendant identified a possible rival.

5 And on the night of the murder of the victim, the
6 defendant was actively trying to lure out John Doe 2, so now,
7 John Doe 1, so not just one person would be killed, but two
8 would be killed.

9 And the other thing here is this notion that there
10 was no turning back. The defendant had weeks to consider what
11 was -- what was going on and what she was doing and what she
12 was being involved in. She had every opportunity to turn her
13 back on it and she didn't. The reason was she was fully
14 committed to it. She was not hanging out with these people
15 out of fear. She was not afraid of the gang. She wanted to
16 be part of it. And she was fully committed to what they were
17 doing. She instigated these crimes. And after it, Your
18 Honor, her conduct after is very, very telling.

19 And also the idea that -- and the defendant uses our
20 own words from the letter sort of against us here in saying
21 that it's not possible to avoid the MS-13.

22 What we're referring to is that it's not possible
23 for people who live in the communities where the MS-13 exists
24 to avoid the terror and the fear that the MS-13 causes.

25 It's very possible to avoid joining the MS-13 gang.

1 It's very possible to avoid participating in murders like
2 this.

3 There are countless immigrants from Central America
4 who come to this country, who come to Long Island, who want a
5 better life, who lead law-abiding lives, and don't associate
6 themselves with the MS-13 gang like the defendant did, who
7 don't participate in conspiracies to murder and murder like
8 this defendant did.

9 So those are just two points that I wanted --

10 THE COURT: All right.

11 MR. SCOTTI: -- address, Your Honor. And I do
12 appreciate the Court allowing me to do so.

13 THE COURT: All right. Thank you.

14 I'm now going to state the sentence I impose. I'll
15 give the attorneys a final opportunity to make any legal
16 objection before the sentence is actually imposed.

17 In imposing the sentence today, I have carefully
18 considered, as I'm required to, the factors set forth by
19 Congress in Section 3553(a).

20 They include, among others, I'm considering all of
21 them -- I'm not, you know, going to read them word for word,
22 but I'm summarizing -- they include the nature and the
23 circumstance of the offense, the history and characteristics
24 of Ms. DelCarmen-Rodriguez, the need for the sentence imposed
25 to reflect the seriousness of the offense, to promote respect

1 for the law, to provide a just punishment for the offense, to
2 afford adequate deterrence to criminal conduct, to protect the
3 public from further crimes by a defendant.

4 I've also considered the Advisory Sentencing
5 Guidelines issued by the Sentencing Commission, which we have
6 discussed, including the applicable range and the applicable
7 policy statements issued by the Sentencing Commission.

8 I've also considered the need to avoid unwarranted
9 disparities among similarly situated defendants. Obviously I
10 sentenced Mr. Sorto Portillo for this crime as well as
11 numerous other defendants, including juveniles for similar
12 crimes. I'm aware of other sentences by other judges as well,
13 so I've considered that factor in detail.

14 And let me just check with the Government the
15 restitution factor. The restitution's not being sought, is
16 that correct?

17 MR. SCOTTI: That's correct, Your Honor.

18 THE COURT: All right.

19 I've also considered, there's been reference both in
20 the letters and today -- and Mr. Taylor is correct, the *Miller*
21 decision dealt with mandatory life sentences -- but certainly
22 we all appreciate that those factors apply here as well when
23 you have a defendant who committed the crime as a juvenile, so
24 I am considering the defendant's chronological age and
25 characteristics, including immaturity, impetuosity, and

1 failure to appreciate risks and consequences.

2 I have considered also the family home and
3 environment that surrounded her both in El Salvador and here.

4 I've considered the circumstances of the homicide
5 offense, including the extent of her participation in the
6 conduct and the way that familial and peer pressures may have
7 affected her conduct.

8 I've considered the possibility of rehabilitation as
9 it relates to issues such as future dangerousness and other
10 3553(a) factors, more of the *Tapia* decision, which the Supreme
11 Court made clear that a sentence cannot be lengthened for
12 imprisonment. And certainly that is not a consideration here.
13 It's a consideration in the context of the other 3553(a)
14 factors.

15 The fifth factor, which Mr. Taylor said is sometimes
16 referred to as the fifth -- five-factor test, doesn't really
17 apply here. It's whether the age affected the ability to plea
18 bargain or assist with the attorneys, and there's no
19 indication of that here.

20 Having considered all the 3553(a) factors and the
21 *Miller* factors, in my discretion, I intend to impose a
22 sentence of 22 years of imprisonment. And I'm going to state
23 the reasons for that sentence.

24 I've given the sentence a lot of thought. People
25 can disagree with the number, but certainly I've done my best

1 to balance all the factors in what is an extremely difficult
2 case. All sentencings are difficult, but this one obviously
3 presents a lot of factors that the Court needs to consider.

4 I start with the nature of the crime and Ms.
5 DelCarmen-Rodriguez's role in that crime and the harm caused
6 by that crime, because I don't think it can be overemphasized,
7 as we heard from the victim's family, Mr. Medrano-Molina lost
8 his life as a result of Ms. DelCarmen-Rodriguez's conduct.

9 She was not the shooter and certainly that is a
10 factor. She's not as culpable as the shooter, but as the
11 Government noted, and is clear from her guilty plea, from the
12 pre-sentence report, she brought this issue to the gang.

13 She understood, based upon her experiences in El
14 Salvador, and her knowledge of the gang, what that would mean
15 if you told the gang that individuals were part of a rival
16 gang, and that's exactly what happened.

17 And I appreciate the Government noting, and I noted
18 it when Mr. Taylor was speaking, that the Government -- the
19 recruiting of Ms. DelCarmen-Rodriguez was recruiting her to
20 lure them, or for John Doe No. 1 unsuccessfully, and then Mr.
21 Medrano-Molina, to their death, but the recruiting did not
22 take place until Ms. DelCarmen-Rodriguez first brought this
23 issue to the gang. She set the wheels in motion. She
24 understood exactly what the gang's response to that was going
25 to be.

1 And then she lured the victim, first, again, John
2 Doe No. 1 unsuccessfully. This involved many weeks over which
3 this conduct and plan played out. And she knew what was going
4 to happen.

5 And as a result of that, a 15-year-old boy, who had
6 done nothing wrong, lost his life. He was executed. And it's
7 part of the activities of a gang that kills people for no
8 reason. They terrorize the communities they operate in. She
9 assisted them.

10 It's in my view that this would not have been
11 successful. They needed someone to trick the victims into
12 going into that forest. And she was a key -- I think the
13 Government referred to as pivotal part of that plan -- and she
14 did so willingly.

15 I'll address the *Miller* factors in a minute.

16 So those factors, to me, if those were the only
17 factors, this sentence would not just warrant a sentence at
18 the high end of the guideline range, it would be -- it should
19 be above the guideline range.

20 The guideline range for murder would be insufficient
21 to address the execution of a 15-year-old boy for no reason
22 and her role in doing that.

23 But there are other factors the Court is
24 considering.

25 Obviously, Mr. Taylor did an excellent job in

1 writing, and today, his mitigation expert of developing the
2 mitigating factors and pointing them out to the Court. And
3 they are significant.

4 First of all, she was a juvenile at the time, almost
5 17 years old. The Court is considering her age. She accepted
6 responsibility. She pled guilty. I'm considering that as
7 well. She did express remorse in the letter. I'm considering
8 that as well. The abuse that she suffered was horrific.

9 I said at the time of the transfer hearing, and I
10 just repeated again, the physical and emotional abuse by her
11 father, the way she was treated was horrific. The sexual
12 abuse by her stepbrother was horrific.

13 And I fully accept and credit the rape that occurred
14 while she was in high school here in the United States.

15 So the Court has carefully considered that, and is
16 giving a lower sentence than I would otherwise give because of
17 that substantial abuse, which Dr. Goldsmith, who, you know,
18 testified here during the transfer hearing, that she suffered
19 significant complex, post-traumatic stress disorder from those
20 experiences. And that's clear and it's important.

21 Her cannabis use contributed as well, because that
22 can affect brain development and function.

23 And obviously the fact that she attempted suicide
24 shortly before this murder took place is a reflection of her
25 suffering from the effects of this abuse at the time of this

1 crime. So the Court needs to consider that because it is a
2 substantial mitigating factor.

3 There are medical issues that she has that I
4 considered as well.

5 The prison conditions, I have considered being
6 incarcerated during COVID. You know, because of reasons Mr.
7 Taylor indicated, you know, it's not necessary indicating any
8 type of abuse by the jail, but just the conditions of
9 confinement were much worse and a sentence should reflect that
10 as well. So the combination.

11 And, you know, there are other things Mr. Taylor
12 covered. I'm not mentioning everything in his submission, but
13 those are the most significant ones that the Court in
14 combination has considered to determine that a 22-year
15 sentence is the appropriate one, balancing all these
16 considerations, rather than what otherwise would be a much
17 higher sentence.

18 I do want to address a couple of things with respect
19 to the *Miller* factors because I did consider those. And
20 obviously the defense asked for a much lower sentence of ten
21 years based upon the mitigating factors, which I don't agree
22 with, and I just want to address the *Miller* factors in
23 particular.

24 This crime was -- first of all, the notion that it's
25 not possible, as Mr. Scotti pointed out, to avoid the gang,

1 even in the communities that the gang operate, I just
2 fundamentally disagree with. It's clear that, you know,
3 juveniles who have all types of challenges and issues in their
4 lives and trauma are still able to avoid the gang and not
5 associate with the gang.

6 The Government's statement in those letters, which
7 I've seen many times, you know, over the years, is an
8 indication that individuals like Mr. Medrano-Molina, who are
9 doing nothing wrong, are victims of the random violence of the
10 MS-13 gang in the communities they operate.

11 So I reject the idea that even someone with
12 obviously horrific trauma that Ms. DelCarmen-Rodriguez
13 suffered that somehow it is inevitable that she would be
14 involved with a gang, and inevitable that she would help
15 engineer this execution. She had a lot of choices to make
16 along the way.

17 And I do not believe there was pressure, that Mr.
18 Taylor indicated today, to commit this crime by the nature of
19 the way the gang functions. And I have seen those situations
20 again over the years. This was not one of them.

21 Nobody was putting pressure on her to bring to the
22 gang her belief, based upon who knows what, that Mr. Medrano-
23 Molina and the other individual were associating with a rival
24 gang. There was no pressure to do that. She chose to do
25 that, again, knowing what the consequences were.

1 And then over a period of weeks, by her decisions
2 and her conduct, showed that she did not care at that time
3 that these individuals were going to be executed. She just
4 did not care. She understood what she was doing. Nobody was
5 putting pressure on her. And she did not care that they would
6 be executed.

7 And, in fact, as the Government noted, was, you
8 know, when John Doe 1 wasn't available, she moved to the next
9 person. And even when Mr. Medrano-Molina showed up with
10 another individual, she moved forward with the plot.

11 So this is not one of those high-pressured
12 situations where she made a spur-of-the-moment decision to be
13 involved in a murder. It took place over a substantial period
14 with her eyes wide open.

15 Certainly it was influenced by her trauma and her
16 lack of judgment, but this is not a situation where issues of
17 pressure or impulsivity were at the forefront. She had been
18 in this country for a number of years. And she had -- her
19 mother was trying to be supportive of her, and she chose to be
20 involved in these offenses.

21 So, although I believe the *Miller* factors certainly
22 warrant a lower sentence than the Court would otherwise impose
23 if she were an adult and if she did not suffer from this
24 trauma, I do not believe that a sentence lower than the 22
25 years that I'm imposing today would properly balance the

1 factors.

2 We have to balance her trauma with the loss of a
3 life. Mr. Medrano-Molina's life is over.

4 And we have to balance her trauma with the trauma
5 of those family members over there, who for the rest of
6 their lives will not have their son, their grandson, their
7 nephew, to share in life, and emotional and mental trauma
8 that they will experience every day for the rest of their
9 lives, has to be reflected, and I don't believe any sentence
10 lower than the 22 years I'm imposing today would properly
11 balance the mitigating factors versus those factors if I
12 were to, in my discretion, sentence anything lower than
13 that.

14 I gave significant thought to giving a higher
15 sentence, but I think this is the proper balance under the
16 circumstances.

17 I also want to address Mr. Sorto Portillo, because
18 certainly I do my best to make sure the sentence is
19 proportionate based upon culpability with respect to other
20 co-conspirators, and also just more generally with respect
21 to sentences of similarly-situated defendants.

22 And I do believe that there is sufficient distance
23 between the two sentences, the eight years. I'm not going
24 to recap Mr. Sorto Portillo's sentence, but -- although he
25 is certainly more culpable than her, he also had his own

1 mitigating factors that led the Court to give him that
2 sentence as opposed to a significantly higher sentence. So
3 I think that's important to note that he had his own
4 mitigating factors that were substantial as well.

5 But, in any event, I believe the other factors,
6 even if this were viewed as not for that particular factor
7 of not having sufficient distance between them, although I
8 think it is, I believe the other factors outweigh that under
9 the circumstances of this particular case.

10 So that's how I arrived at this sentence.

11 I intend to impose three years of supervised
12 release, even though it's likely, as Mr. Taylor noted, and I
13 did consider the collateral consequences as well, it's
14 likely she will be deported once she finishes serving this
15 jail time. I'm imposing the three years of
16 supervised release in any event for two reasons.

17 One, in the event that she is not deported, who
18 knows what the immigration laws will be in the future and
19 whether or not there will be mandatory deportation or not,
20 but assuming she was able to stay in the United States, she
21 certainly should be under supervision for three years to
22 ensure she does not return to any type of criminal activity
23 or gang activity.

24 And in order to monitor her for those purposes,
25 all the special conditions are necessary. Including not

1 associating in any way with gangs; participating in mental
2 health evaluation, if necessary, treatment, because of the
3 psychological issues that we have all agreed upon that she
4 has; the search condition's necessary because of the
5 involvement and the nature of this offense and the gang
6 activity, the involvement of a firearm; if she's removed
7 that she may not reenter the United States illegally, I'll
8 address that in a moment; she cooperate with all immigration
9 authorities if she stays in the United States. Those are
10 certainly all necessary to monitor her once she gets out of
11 jail.

12 If she is deported, I believe this is also
13 appropriate to act as a disincentive for her to return to
14 the United States. As Mr. Taylor noted, she's been here
15 since she was 12. Her mother is here.

16 And this will operate as a disincentive for her to
17 come back because it would not only be a separate crime for
18 her to come back, but it would be a violation of her
19 conditions of release during this period, which can be
20 subject to even more penalties.

21 So that's why I believe it's appropriate in this
22 particular case.

23 I'm not going to impose a fine because she has no
24 money. I'm not going to impose restitution because it's not
25 sought. I do intend to impose the \$100 special assessment.

1 I'll now hear from the lawyers, is there any legal
2 reason why the Court cannot impose that sentence?

3 Mr. Taylor?

4 MR. TAYLOR: No, Your Honor.

5 THE COURT: Mr. Scotti?

6 MR. SCOTTI: No, Your Honor.

7 THE COURT: All right. I'll now formally impose
8 the sentence.

9 Ms. DelCarmen-Rodriguez, it is the judgment of
10 this court, in its discretion, after considering the 3553(a)
11 factors, that you be sent to the custody of the Attorney
12 General through the Bureau of Prisons to a term of
13 imprisonment of 22 years, 264 months.

14 I impose three years of supervised release to
15 follow that term of imprisonment, with the standard
16 conditions, and the mandatory conditions.

17 I do modify one of those conditions because the
18 Second Circuit has suggested that it's inappropriate to
19 delegate to the Probation Department its assessment in terms
20 of notifying any third parties of her conviction, that that
21 should be made by the Court, so I'll modify that standard
22 condition to reflect it's the Court's decision.

23 I also impose the special conditions as follows:

24 One, you shall not associate in person, through
25 mail, or electronic mail, the internet, social media,

1 telephone, or any other means with any individual with an
2 affiliation to any organized crime groups, gangs or other --
3 any other criminal enterprise. Nor shall you frequent any
4 establishment or other locale where these groups may meet
5 pursuant, but not limited to a prohibition list provided by
6 the Probation Department. You shall not access any website
7 that is affiliated with radical extreme groups, terrorist
8 organizations, organized crime groups, gangs, or any other
9 criminal enterprise.

10 Two, you shall participate in a mental health
11 evaluation and, if deemed necessary, mental health treatment
12 program approved by the U.S. Probation Office.

13 You shall contribute to the cost of services
14 rendered for any psychotropic medications as prescribed via
15 co-payment or full payment in an amount to be determined by
16 the U.S. Probation Department based upon your ability to pay
17 and/or the ability of third-party treatment.

18 Third, you shall submit your person, property,
19 house, residence, vehicle, papers, computers, as defined in
20 18 U.S.C. Section 1030(e)(1), other electronic
21 communications or data storage devices or media or office,
22 to a search conducted by a United States Probation Officer.

23 Failure to submit to a search may be grounds for
24 revocation of release. You shall warn any other occupants
25 that the premises may be subject to searches pursuant to

1 this condition.

2 An officer may conduct a search pursuant to this
3 condition only when suspicion exists that you violated a
4 condition of your supervision and that the areas to be
5 searched contain evidence of this violation. Any search
6 must be conducted at a reasonable time and in a reasonable
7 manner.

8 If removed, you may not reenter the United States
9 illegally, and you shall cooperate with and abide by all
10 instructions of the immigration authorities.

11 I would just note with respect to the computers
12 that both respective association and search condition, the
13 use of computers and text messages by these gangs make those
14 types of mining or search or ensuring that no association
15 based upon the internet or social media necessary.

16 I impose a \$100 mandatory special assessment. I
17 impose no fine and no restitution.

18 Ms. DelCarmen-Rodriguez, I need to advise you of
19 our statutory right to appeal. To the extent you have not
20 waived your right to appeal in your plea agreement with the
21 Government, you have a right to appeal your conviction and
22 sentence.

23 If you're unable to pay the cost of appeal, you
24 may apply for leave to appeal in forma pauperis. If you
25 cannot afford an attorney, one will be appointed to

1 represent you on appeal. The notice of appeal must be filed
2 within 14 days of judgment of conviction.

3 Does the Government move to dismiss the underlying
4 juvenile information?

5 MR. SCOTTI: Yes, Your Honor.

6 THE COURT: The underlying juvenile information is
7 dismissed.

8 All right. Are there any other issues either side
9 needs to raise?

10 Anything from the defense?

11 MR. TAYLOR: Yes, Your Honor.

12 We would ask that the Court recommend, in the
13 judgment concerning Ms. DelCarmen-Rodriguez's designation,
14 first, that she not be designated to a facility in the State
15 of Texas. The reason for that is that one of her abusers is
16 believed to live there.

17 And second, we ask that the Court recommend to the
18 Bureau of Prisons that Ms. DelCarmen-Rodriguez be designated
19 to a facility with a female integrated treatment program, or
20 FIT Program, is available.

21 Thank you.

22 THE COURT: All right. I'll put those, both of
23 those recommendations in the judgment of conviction.

24 Doe the Government have anything else for today?

25 MR. SCOTTI: Nothing further from the Government.

1 Thank you, Your Honor.

2 THE COURT: All right. Thank you.

3 (Proceedings concluded at 1:07 p.m.)

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6 I, CHRISTINE FIORE, court-approved transcriber and
7 certified electronic reporter and transcriber, certify that
8 the foregoing is a correct transcript from the official
9 electronic sound recording of the proceedings in the above-
10 entitled matter.

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13 _____ December 28, 2023

14 Christine Fiore, CERT
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